

REMARKS

Claims 1-27 and 42-59 are pending in the application. In the instant amendment, claims 6, 9, 12 and 53 have been amended to clarify the present invention, and new claim 60 has been added. Upon entry of the above-made amendment, claims 1-27 and 42-60 will be pending.

Support for the amended claim recitations and for the new claims may be found in the specification as follows:

<u>Claim</u>	<u>Support in specification</u>
6	Page 12, lines 1-17
9	Page 24, lines 28-30
12	Page 12, lines 1-17
60	Page 24, lines 24-27.

Claim 6 is amended to change “endothelial cell-specific promoters” to “an endothelial cell-specific promoter.” The amendments to claims 9 and 12 clarify that the recited promoter and silencer element, respectively, is *from* the recited genes. Claim 9 is amended to add a recitation of the human synapsin gene. Claim 53 is amended to correct a typographical error. New claim 60 is specifically directed to an HRE element disclosed in Example 1. No new matter has been added by the amendments to claims 6, 9, 12 or 53, or by the addition of claim 60. Entry of the foregoing amendments is respectfully requested.

In the Office action mailed March 11, 2003, the Examiner requires an election of species as follows.

The Examiner requires election of one of the cell-type specific promoters recited in claim 6. Applicants elect, with traverse, a cardiac muscle-specific promoter. Claims readable on the elected species are claims 1-27, 42-53 and 56-60.

The Examiner requires election of a type of conditionally-inducible element, as recited in claims 11 and 13-16. Applicants elect, with traverse, the HRE element to which hypoxia inducible factor-1 transcription factor binds. Claims readable on the elected species are claims 1-12, 18-27, 42-58 and 60.

The Examiner requires, upon election of an HRE element, election of the gene from which the HRE element is derived. Applicants elect, with traverse, an HRE element from the erythropoietin gene. Claims readable on the elected species are claims 1-12, 16-27, 42-58 and 60.

The Examiner requires election of a nucleotide sequence in the vector, as recited in claims 18-20. Applicants elect, with traverse, a coding region for the gene for vascular

endothelial growth factor (VEGF). Claims readable on the elected species are claims 1-18, 20-27 and 42-60.

Finally, the Examiner requires election of a particular silencer element, as recited in claim 9. Applicants have amended claim 9 to include the human synapsin gene; therefore, Applicants elect, with traverse, the silencer element from the human synapsin gene. Claims readable on the elected species are claims 1-9, 11-27, 42-55 and 57-60.

### CONCLUSION

Applicants respectfully request that the above-made remarks be entered and made of record in the file history of the present application. Claims 1-27 and 42-60 fully meet all statutory requirements for patentability. Early allowance and action for issuance are earnestly requested.

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Respectfully submitted,  
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*Enclosures*